

Patent
Atty Docket No. 11197/1

REMARKS

Claims 1-3 and 5-19 are pending, of which claims 5-19 have been withdrawn.

In the Office Action of February 24, 2003, claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by Misiano (U.S. Patent No. 5,462,779), claim 2 was rejected under U.S.C. 103(a) as being unpatentable over Misiano, and claims 3 and 4 were rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Misiano.

In the interview of October 7, 2003, the Examiner indicated that, ideally, the inherent thickness ratio of the film disclosed in Misiano could be estimated by finding data in another Misiano reference. However, Applicants were unable to find any references disclosing the actual coating thickness ratio of Misiano. For example, "D.O.B.: A New Product for Transparent and Colorless Barrier Coating," submitted herewith in an IDS, merely provides target thickness ratios rather than actual experimental results.

In the absence of actual data, Applicants have attempted to reproduce the Misiano process to determine whether Misiano's film "necessarily flows from the teachings of the prior art." MPEP 2112. In the Iseki Declaration submitted herewith under 37 C.F.R. 1.132, experimental results show a coating thickness ratio of 1.69 produced by the state-of-the-art process at the time of Misiano. See Iseki Declaration, Table 1, for example. The state-of-the-art process used in these experiments is controlled using a feedback mechanism, as explained in the interview. Misiano teaches a comparable process, but without any control mechanism. Even though controlled, the process in the experiments was still unable to produce a thickness ratio of 1.5 or less. The process of Misiano, which is uncontrolled, is therefore unlikely to produce a thickness ratio of 1.5 or less. Thus, it is highly improbable that Misiano's film has an inherent thickness ratio of less than 1.5. Hence, claim 1 and dependent claims 2-3 are not anticipated by Misiano.

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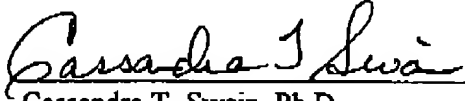
CONCLUSION

Applicants submit that the claims are allowable and an early and favorable action to that effect is respectfully requested. The Examiner is invited to contact the undersigned to discuss any matter related to this application. The Office is authorized to charge any fees under 37 C.F.R. 1.16 or 1.17 or credit any overpayment to Kenyon & Kenyon Deposit Account 11-0660.

Respectfully submitted,

KENYON & KENYON

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